

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL DISTRICT
OF BOLIVAR COUNTY, MISSISSIPPI

MYRA FOSTER, On Behalf
Of Her Mother, LOUISE FOSTER

PLAINTIFF

v.

CIVIL ACTION NO. 2021-0013

CLEVELAND NURSING AND
REHABILITATION CENTER, LLC And
KENEISHA GREENWOOD

DEFENDANTS

COMPLAINT

COMES NOW plaintiff Myra Foster, on behalf of her mother Louise Foster, by and through counsel of record and files her complaint against defendant Cleveland Nursing and Rehabilitation Center, LLC (CNRC) and Executive Director Keneisha Greenwood (defendant Greenwood) to assert negligence and gross negligence claims arising out of the August 28, 2020 sexual assault of Louise Foster by another patient while she was confined as a patient at the CNRC facility in Cleveland, Mississippi and in support of the same would represent unto this Court the following:

I. Introduction

1. This civil action arises out of the named defendants' and the CNRC staff's failure to protect a vulnerable adult arising out of gross negligence that proximately caused and contributed to the August 28, 2020 sexual assault of Louise Foster at the CNRC of which defendant Greenwood is the Executive Director in Cleveland, Second Judicial District of Bolivar County, Mississippi.

II. Jurisdiction

2. This Court has subject matter jurisdiction of this civil action pursuant to Miss. Constn. Art. 6, Section 156 (1890) and Miss. Code Ann. Section 9-7-81 (1972).

III. Venue

3. By virtue of the provisions of Miss. Code Ann. Section 11-11-3 (Rev. 2011), this Court has venue of this civil action as plaintiff resides in Cleveland, Second Judicial District of Bolivar County, Mississippi and a substantial portion of the events from which plaintiff's claims arise occurred in Cleveland, Second Judicial District of Bolivar County, Mississippi.

IV. Parties

4. Plaintiff Myra Foster is an adult resident citizen of Cleveland, Second Judicial District of Bolivar County, Mississippi and is the natural daughter of Louise Foster who is an adult resident citizen currently a residential patient at the Cleveland Nursing and Rehabilitation Center located at 4044 Highway 8, Cleveland, Mississippi 38732 in the Second Judicial District of Bolivar County, Mississippi.

5. Defendant CNRC is a limited liability corporation incorporated and existing under the laws of the State of Mississippi with its principal office located at 4036 Highway 8 East, Cleveland, Mississippi 38732. CNRC may be served with process of this Court by and through its registered agent United Corporation Services, Inc., 248 East Capitol Street, Suite 840, Jackson, Mississippi 39201.

6. Defendant Greenwood is an adult resident citizen of Mississippi and is the Executive Director of CNRC. At all times complained of herein, defendant Greenwood was acting in her

official capacity as Executive Director of CNRC. Defendant Greenwood may be served with process at the CNRC facility located at 4036 Highway 8 East, Cleveland, Mississippi 38732.

V. Facts

7. Louise Foster was eighty seven (87) years old at the time of the sexual assault and was at the time a resident of the CNRC facility in Cleveland, Second Judicial District of Bolivar County, Mississippi.

8. CNRC is a limited liability corporation owning the living facility located at 4044 Highway 8, Cleveland, Mississippi 38732 operating and existing under the laws of the State of Mississippi since it's incorporation on May 6, 2003 per the Mississippi Secretary of State.

9. Louise Foster was a vulnerable adult within the meaning of Miss. Code Ann. Section 43-47-5(q) (Rev. 2015). See *Small v. State*, 2020 WL 5951510 (Miss.). She moved to the CNRC facility for care due to advanced age.

10. On August 28, 2020, Louise Foster was sexually assaulted by fifty nine (59) year old male patient at the CNRC facility.

11. The sexual assault incident was reported to law enforcement. Initially, Lieutenant Veronica Wesley of the Cleveland, Mississippi Police Department responded before the investigation was turned over to Simon Bush of the Bolivar County, Mississippi Sheriff Department.

12. The sexual assault was reported to CNRC staff and was investigated by the Mississippi State Department of Health's Bureau of Health Facilities.

13. The investigation by the Bureau of Health Facilities "resulted in the citation of

regulatory deficiencies," according to the December, 10, 2020 letter from Linda Pate, Division Director II of the Northwest District of the Bureau of Health Facilities Office of Licensure and Certification. A copy of the December 10, 2020 letter from Linda Pate is attached hereto as Exhibit 1.

15. Louise Foster is an elderly woman which limits her ability to protect herself from sexual abuse.

VI. First Cause Of Action: Negligence

16. Defendants were guilty of gross negligence and reckless conduct on the occasion complained of in that:

- a) They acted with gross negligence and failed to maintain a safe environment for the patients housed at the CNRC facility;
- b) They acted with gross negligence and failed to keep proper surveillance of a patient who was a known sexual offender;
- c) They acted with gross negligence and failed to protect Louise Foster and other patients from a known sexual offender; and
- d) Other grossly negligent acts to be shown at the trial of this civil action.

VII. Second Cause Of Action: Reckless Conduct

19. As a direct and proximate result of defendants' aforesaid acts of gross negligence and reckless conduct, plaintiff and her mother Louise Foster have suffered bodily injuries and emotional distress and in a reasonable probability, will continue to suffer pain and anguish into the future. Plaintiff is entitled to damages for past medical bills, future projected medical costs, emotional, psychiatric and psychological damages for the conscious pain and suffering and

permanent impairments due to defendants' gross negligence in failing to maintain a safe environment for the patients housed at the CNRC facility.

VIII. Third Cause Of Action: Deliberate Indifference

20. Defendants demonstrated deliberate indifference to the health, safety and well being of Louise Foster and other patients housed at the CNRC through their acts and omissions which allowed the August 28, 2020 sexual assault of Louise Foster to occur.

WHEREFORE, PREMISES CONSIDERED plaintiff requests this Court as follows:

- a) that process be issued in terms provided by law and that defendants be served with process of this Court in accordance with law;
- b) that a jury trial be held on any and all triable issues;
- c) that plaintiff have judgment against the defendants for all special, general and compensatory damages recoverable by on her causes of action and claims of negligence or such amounts as a jury may determine to be just and proper; and
- d) that plaintiff receive any and all other relief which is deemed just and proper by this Court.

SO COMPLAINED this the 4th day of March, 2021.

Respectfully Submitted,
MYRA FOSTER, ETC., Plaintiff

BY:



ELLIS TURNAGE, Attorney For Plaintiff

OF COUNSEL:

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